

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENJAMIN JONES; MICHELLE YU;  
OFFICE OF TAX COLLECTOR SAN  
MATEO COUNTY; NATIONAL CITY  
MORTGAGE COMPANY; UNIFUND CCR  
PARTNERS; EMPLOYMENT  
DEVELOPMENT DEPARTMENT STATE  
OF CALIFORNIA; FRANCHISE TAX  
BOARD STATE OF CALIFORNIA; BANK  
OF AMERICA, N.A.,

Defendants.

Case No. CV-10-796-WHA

~~PROPOSED~~ ORDER AS TO LIEN  
PRIORITY BETWEEN THE UNITED  
STATES OF AMERICA AND PNC  
MORTGAGE (FKA NATIONAL CITY  
MORTGAGE), A DIVISION OF PNC  
BANK, NATIONAL ASSOCIATION

Based on the Stipulation as to Lien Priority Between the UNITED STATES OF AMERICA and PNC MORTGAGE (FKA NATIONAL CITY MORTGAGE), A DIVISION OF PNC BANK, NATIONAL ASSOCIATION ("PNC Mortgage"), and for good cause showing, **IT IS ORDERED:**

1. Count V of the Complaint seeks to foreclose federal tax liens against Defendant Benjamin Jones on the real property located at 742 Great Highway, #3, San Francisco, California ("Subject Property"), APN Number 12-1595-097, with a legal description as follows:

PARCEL A:

UNIT 3, LOT NO. 97, as shown on that certain Map entitled, "MAP OF 742 GREAT HIGHWAY, A CONDOMINIUM PROJECT, BEING A RESUBDIVISION OF LOT 15, PORTION OF

ASSESSOR'S BLOCK 1595, SAN FRANCISCO, CALIFORNIA", which map was filed for record in the office of the Recorder of the City and County of San Francisco, State of California, on February 4<sup>th</sup>, 1991 in Book 32 of Condominium Maps, at Pages 102 to 104, inclusive.

PARCEL B:

TOGETHER WITH the following appurtenant easement:

- a) A non-exclusive easement for ingress, egress, support and repair through the Common Area, as shown on the Map;
- b) An exclusive easement to use Parking Area No. P-3, as shown on the Map.

PARCEL C:

AN UNDIVIDED 33.16% INTEREST, as Tenants in Common with all other Unit Owners, in and to the Common Area, as shown on the Map.

PARCEL D:

TOGETHER WITH the following easements appurtenant to the Common Area:

- a) Non-exclusive easements for encroachments upon the air space of all of the Units by and for the portions of the Common Area lying within the Units.

PARCEL E:

A non-exclusive easement to use Easement "B" as shown on Map of Ocean Beach filed January 11, 1989, in Book "Y" of Maps, at Pages 30-32, inclusive.

2. The UNITED STATES contends that it has the right to judicial foreclosure of its Federal tax liens against the Subject Property and PNC Mortgage does not oppose judicial foreclosure of the Subject Property by the United States.

3. The Federal tax liens against the subject property are subordinate to that certain Deed of Trust encumbering the Subject Property and recorded with the Official Records of the San Francisco County Recorder's Office on January 15, 2003 as Instrument Number 2003-H336157-00.

4. Upon request by the UNITED STATES, PNC Mortgage will provide payoff information regarding the mortgage on the Subject Property pursuant to California Civil Code §

1 2943.

2 5. PNC Mortgage shall not be required to attend further hearings, respond to further  
3 pleadings in this matter, or participate in further statute conferences, scheduling conferences, joint  
4 status reports, or trial.

5 6. The proceeds of the sale of the Subject Property will be used to pay the claim of PNC  
6 Mortgage before they are used to satisfy the claim by the UNITED STATES. Prior to filing an  
7 application for final order of the Court, the UNITED STATES agrees to provide an accounting to  
8 PNC Mortgage setting forth the full disposition of the proceeds from the sale of the Subject Property.

9 7. The UNITED STATES agrees to bear its own costs and attorney's fees as against  
10 PNC Mortgage and PNC Mortgage agrees to bear its own costs and attorney's fees as against the  
11 UNITED STATES.

12 As between the priority of the two stipulating parties, the Court approves the stipulation without  
prejudice to any other claim of superior priority.

13 **IT IS SO ORDERED.**

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15  
16 DATED: January 3, 2011



HON. WILLIAM H. ALSUP  
United States District Judge